

IN RE: PETITION FOR ZONING VARIANCE
N/S Summit Avenue, 10' SW of
Ext. of S/W R/W of Gilmore St.
(1926 Summit Avenue)
2nd Election District
2nd Councilmanic District
Raymond A. Kinsey, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-473-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an existing accessory structure (garage) with a height of 19 feet in lieu of the maximum 15 feet height permitted in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. Also appearing on behalf of the Petition was Robert Annenberg of Investment Builders.

Testimony indicated that the subject property, known as 1926 Summit Avenue, consists of 19,110 sq. ft. zoned D.R. 5.5, and is improved with a single family dwelling and detached garage. Petitioners testified they commenced construction of a second floor addition to the existing garage in November, 1988. In response to a complaint filed with the Building Inspection Division of the Department of Permits and Licenses, a stop work order was issued in December, 1988. Testimony presented indicated Investment Builders had accepted full responsibility for applying for all necessary permits. Petitioners did not know permits were not issued and/or a variance was required until January 1989. Petitioners subsequently filed the instant Petition to allow the existing improvements with the addition to remain. Testimony indicated the addition is needed to provide additional storage space and a work area for Mr. Kinsey to pursue his woodworking hobby. Petitioners testified the building would not be used for commercial purposes nor would there be any living or sleeping quarters

provided. However, testimony indicated they wanted the option to add shower and toilet facilities to the garage in the event a swimming pool was added to the property in the future. Petitioners testified the requested variance will not result in any detriment to the health, safety, or general welfare of the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 18th day of May, 1989 that the Petition for Zoning

- 2 -

Variance to permit an existing accessory structure (garage) with a height of 19 feet in lieu of the maximum 15 feet height permitted in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartments. The garage addition shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.
- 3) In the event Petitioners should add a swimming pool to their property in the future, and all County building codes and permit procedures are followed, Petitioners shall be permitted to add a toilet and shower facilities to the garage building at that time.
- 4) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

- 3 -

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

May 18, 1989

Mr. & Mrs. Raymond A. Kinsey
1926 Summit Avenue
Woodlawn, Maryland 21207

RE: PETITION FOR ZONING VARIANCE
N/S Summit Avenue, 10' SW of the Ext. of SW R/W of Gilmore Street
(1926 Summit Avenue)
2nd Election District - 2nd Councilmanic District
Raymond A. Kinsey, et ux - Petitioners
Case No. 89-473-A

Dear Mr. & Mrs. Kinsey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.3 To allow an accessory structure (garage) with a height of 19 ft. in lieu of the maximum 15 ft. permitted.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Request permission to have variance granted to allow us to keep our 2nd floor addition and garage (existing) which was built to match the existing house but was not allowed to be built for any reason. This is the only way to keep the house.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

City and State

Attorney's Telephone No.:

Address

City and State

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 22nd day of March, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning out Baltimore County, that property be posted, and that the public hearing be held before the Zoning out Baltimore County in Room 108, County Office Building in Towson, Baltimore Commissioner of Baltimore County on the 18th day of May, 1989, at 2 o'clock County, on the 18th day of May, 1989, at 2 o'clock

P. M.

J. Robert Haines
Zoning Commissioner of Baltimore County

(over)

ZONING DESCRIPTION
BEGINNING AT A POINT ON THE N SIDED OF SUMMIT AVE 10 FT WIDE
10 FT SW OF THE EXTENSION OF THE S/W R/W OF GILMORE
ST 10 FT R/W WITH THE ME N/R/W LINE OF SUMMIT AVE.
BEING LOT 180 OF THE SUBDIVISION OF 16 ACRES AS
RECORDED IN PLAT BOOK W.P. #5 FOLIO 44 ALSO KNOWN AS
1926 SUMMIT AVE

OWNERS WILL TAKE FULL RESPONSIBILITY
AS TO THE INFORMATION PROVIDED ON
SAID PLAT PREPARED BY BALTO. CO.
OWNER DATE
OWNER DATE

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 2nd Date of Posting April 26, 1989
Posted for: Variance
Petitioner: Raymond A. Kinsey, et ux
Location of property: 1926 Summit Avenue, 10 ft. E. of S/W R/W of Gilmore Street, 1926 Summit Avenue
Location of Sign: In front of 1926 Summit Avenue

Remarks: Arate
Posted by: S.J. Arate Date of return: April 28, 1989
Number of Signs: 1

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 4-25-89

Mr. & Mrs. Raymond A. Kinsey
1926 Summit Avenue
Woodlawn, Maryland 21207

Re: Petition for Zoning Variance
CASE NUMBER: 89-473-A
N side Summit Avenue, 10 ft. E of S/W R/W of Gilmore Street
1926 Summit Avenue
2nd Election District - 2nd Councilmanic
District
Petitioner(s): Raymond A. Kinsey, et ux
HEARING SCHEDULED: WEDNESDAY, MAY 17, 1989 at 2:00 p.m.

Dear Petitioners:

Please be advised that \$76.00 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
Zoning Commissioner of
Baltimore County

JRH:gs

cc: File

income checks. In addition, the County will ask the court to direct a survey directing lawyers to indicate what types of pro bono activities they are currently performing and what they are willing to do to help serve the poor.

In 1982, the Md. General Assembly established a voluntary IOLTA program that allowed interest from escrow accounts maintained by lawyers to be transferred to legal assistance programs. Approximately 43% of lawyers in the private sector currently participate in IOLTA, generating almost \$1 million in FY 1988.

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by the authority of the Zoning Act and Regulations of Baltimore County, hereby gives notice of a public hearing on the following matter to be held at the County Office Building, located at 111 W. Calverton Avenue, Towson, Maryland 21204, on:

Petition for Zoning Variance Case Number: 89-473-A
N side Summit Avenue, 10 ft. E of S/W R/W of Gilmore Street
1926 Summit Avenue
2nd Election District - 2nd Councilmanic District
Petitioner(s): Raymond A. Kinsey, et ux
Hearing Scheduled: Wednesday, May 17, 1989 at 2:00 p.m.

Variance to allow an accessory structure (garage) with a height of 19 ft. in lieu of the maximum 15 ft. permitted.

In the event that the Petitioner(s) is/are a building contractor or contractors who are engaged in the construction of a new building, the Zoning Commissioner will, upon request, provide a copy of the Zoning Act and Regulations to the Petitioner(s) at no charge. Such request must be in writing and must be received by the Zoning Office on or before the date of the hearing set above or presented at the hearing.

FOR THE ZONING COMMISSIONER OF BALTIMORE COUNTY

THIS was published in the newspaper of Baltimore County on the 1st day of May, 1989.

day of May, 1989
THE NORTHWEST STAR
Manager J. H. Haines
Cost of Advertisement \$21.60

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Apr 20, 19 89.

S. Zehe Oliver

Publisher

PO 10998
reg M28918
cs # 89-473-A
price \$ 39.40

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
4290 Apr. 20.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

April 10, 1989



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 89-473-A
N side Summit Avenue, 10 ft. E of S/W R/W of Gilmore Street
1926 Summit Avenue
2nd Election District - 2nd Councilmanic
Petitioner(s): Raymond A. Kinsey, et ux
HEARING SCHEDULED: WEDNESDAY, MAY 17, 1989 at 2:00 p.m.

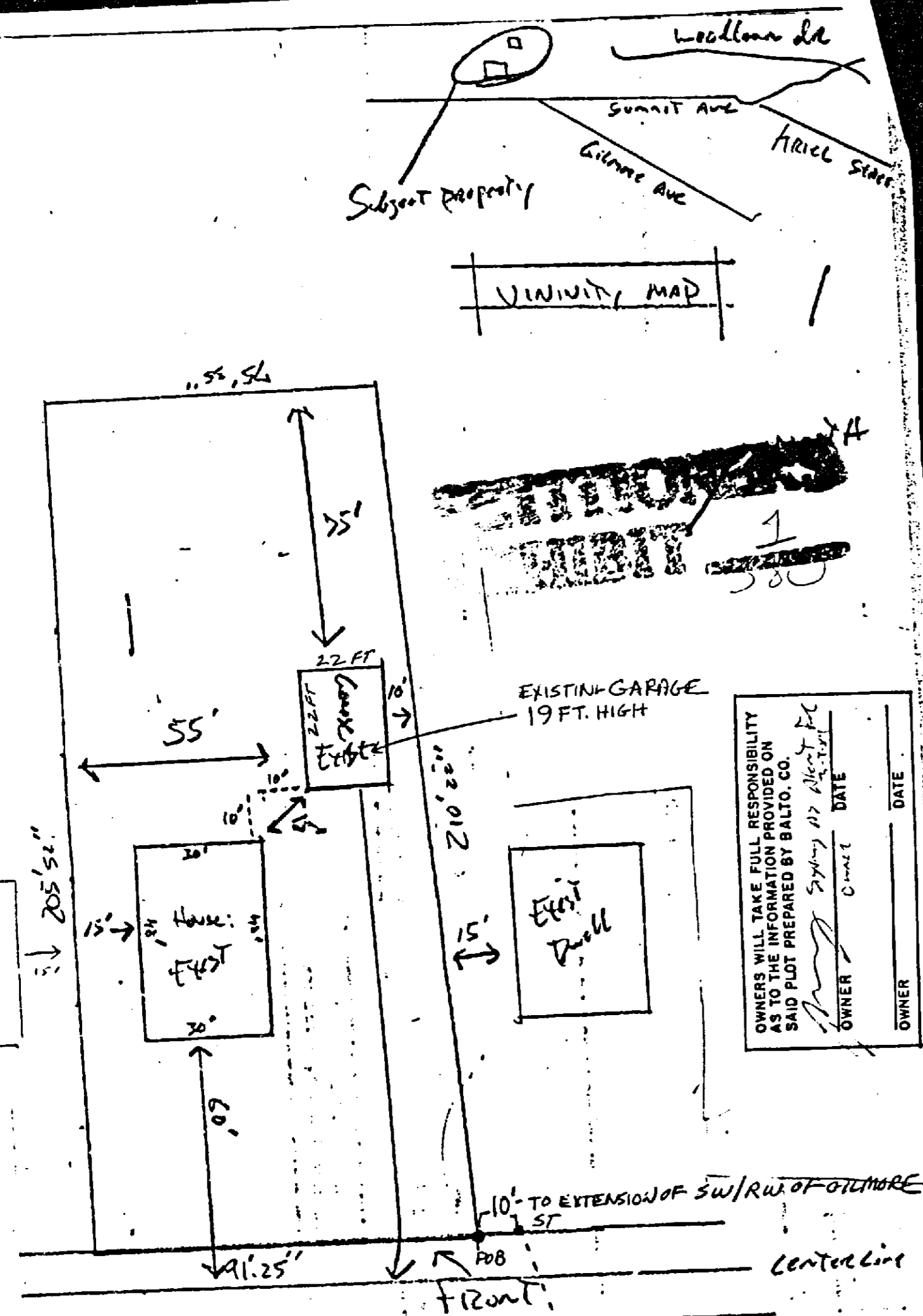
Variance to allow an accessory structure (garage) with a height of 19 ft. in lieu of the maximum 15 ft. permitted.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Hines

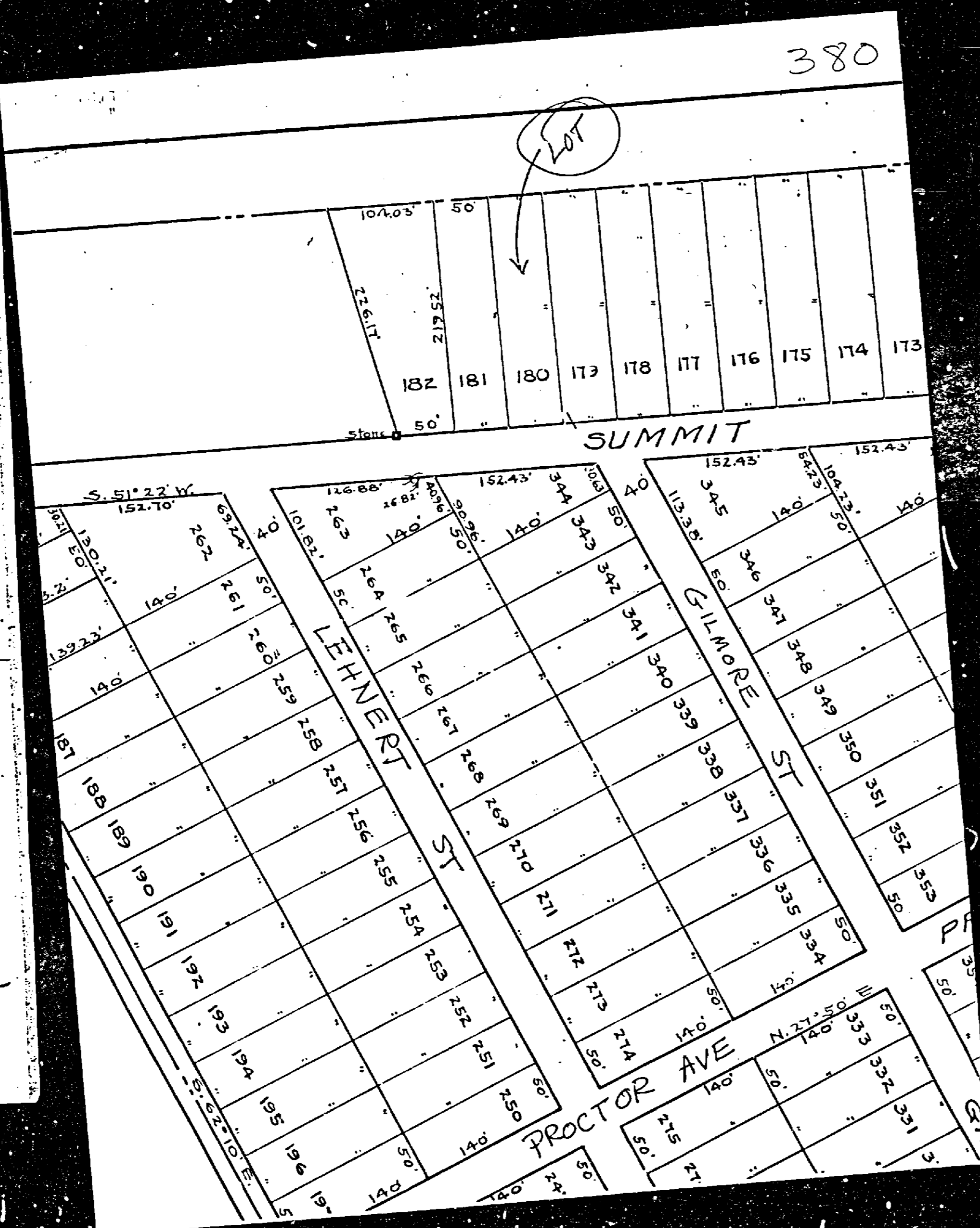
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. Raymond A. Kinsey
File



Plot for zoning variance. LOT size = 19,110 sq ft
Owner = Ray Kinsey
DISTRICT 2. Zoned D.R. 5.5
Sub Division = Palmdale Acres
Block no 5-441 LOT#180
UTILITIES IN SUMMIT AVE
Zoning Description = Sec 3641.1 (s)
14 ACRES
Slate Bluff ST
40 W

Scale 1" = 30'



To Whom It May Concern,

MR. Lewis Mertz, the owner(s) of the home at 1924 Summit Ave., adjacent to the property in question (1926 Summit Ave. Woodlawn, MD. 21207), are in full agreement with the variance request being made to allow for the construction of a 2 story garage on said property. I (We) understand that Annenberg Ent. is the company doing the construction and that the second story is an addition to the existing garage.

Louis Merz 1/4/59
Date
Raymond A. Kinney 1-16-59
Date

PETITIONER'S EXHIBIT 2A

To Whom it May Concern,

Mr & Mrs Glenn Hottinger, the owner(s) of the town
in 1929 Summit Ave, adjacent to the property in
question (1926 Summit Ave. Woodlawn, MD. 21207), are in full agreement with
the variance request being made to allow for the construction of a 2 story garage on
said property. (We) understand that Annenberg Ent. is the company doing the
construction and that the second story is an addition to the existing garage.

Alvin Hottel 1-17-89
Date

Raymond A Kirsney 1-18-89
Date

23

To Whom it May Concern,

Mr & Mrs Clyde Anderson, the owner(s) of the home at 1917 Woodman Drive, adjacent to the property in question (1926 Summit Ave. Woodlawn, MO. 21207), are in full agreement with the variance request being made to allow for the construction of a 2 story garage on said property. I (We) understand that Annenberg Ent. is the company doing the construction and that the second story is an addition to the existing garage.

Clyde Anderson 1/16/89
Date

Raymond A Kinsey 1-16-89
Date

PETITIONER'S
 EXHIBIT 2C

89-473-A
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
22nd day of March, 1989.

J. Robert Haines
 J. ROBERT HAINES
 ZONING COMMISSIONER

Petitioner: Donald A. Kinney, et ux Received by: James E. Over
 Petitioner's Chairman, Zoning Plans
 Attorney Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 4, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

Mr. & Mrs. Raymond A. Kinsey
1926 Summit Avenue
Woodlawn, MD 21207

RE: Item No. 380, Case No. 89-473-A
Petitioner: Raymond A. Kinsey, et ux
Petition for Zoning Variance

MEMBERS

Bureau of
Engineering
Department of
Traffic Engineering
State Roads Commission
Bureau of
Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial
Development

Dear Mr. & Mrs. Kinsey:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

April 21, 1989



Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines

The Bureau of Traffic Engineering has no comments for items number 367, 368, 369, 370, 371, 372, 374, 375, 376, 377, 378, 379, 380, 381, and 382.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lab

RECEIVED
APR 28 1989

ZONING OFFICE

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204



Dennis F. Rasmussen
County Executive

Re: Property Owner: Raymond A. Kinsey, et ux

Location: N Side Summit Ave., 10' E of S/W R/W of Gilmore St.

Item No.: 380

Zoning Agenda: March 21, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or ___ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- (X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Chris Kelly* 5-12-89
Planning Group
Special Inspection Division

NOTED &

APPROVED: *Chris Kelly*
Fire Prevention Bureau

/j1

MAR 20 1989

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: May 17, 1989

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

RECEIVED
MAY 4 1989

ZONING OFFICE

Case No. 89-473-A
Item No. 380

Re: Raymond A. Kinsey, et ux

The Petitioners request a variance to allow a garage height of 19 feet in lieu of the permitted 15 feet for the purpose of constructing a second story addition to an existing garage. In reference to this request, staff offers the following comment:

This office has no objection to the requested variances. However, a restriction should be placed in the Order prohibiting any living quarters, kitchen or bathroom facilities in the garage and limiting the storage to being the personal property of occupants of the principal dwelling only.

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